

**COUNCIL MEETING MINUTES**

**February 7, 2024**

**\*Audio recording of full meeting will be available on line on the city’s website\***

Niles City Council held its regular meeting on February 7, 2024, at 6:00 p.m. at the Niles Senior Center in Niles, Ohio.

The meeting was called to order by Council President Pro Tem, Doug Sollitto and the Clerk, Nicole Bacak, called the roll:

Weddell- P, Johnstone-P, Sheely-P, Devorich-P, Julian-P, Lastic- P, Sollitto- P, Marino-NP

It was moved by Julian, seconded by Lastic to excuse President Marino from the meeting.  
Motion carried.

It was moved by Devorich, seconded by Julian to accept the minutes from the public hearing January 17<sup>th</sup> and 17<sup>th</sup> regular meeting and place them on file.  
Motion carried.

**REPORTS AND COMMUNICATIONS**

**FROM-** Ohio Division of Liquor Control

Notice to Legislative Authority – Niles Business Association LLC- DBA Buckeye Beverage

It was moved by Sheely, seconded by Julian to accept, and refer to the Police Chief and Safety Director for their recommendation.

Motion Carried.

**FROM-** Trumbull County Commissioners

Packet for Annexation of 31.3801 Acres of land Howland/Vienna Township to the City of Niles

It was moved by Devorich, seconded by Lastic to accept, and place it on file.

Motion Carried.

**FROM-** Niles Municipal Court

2023 Annual Report

It was moved by Julian, seconded by Lastic to accept, and place it on file.

Motion Carried.

**FROM-** Fire Department

2023 Annual Report

It was moved by Sheely, seconded by Johnstone to accept, and place it on file.

Motion Carried.

**FROM-** Housing and Zoning Inspector

Petition to amend zoning map- 1819 Pleasant Valley Rd Girard, Ohio.

It was moved by Julian, seconded by Lastic to accept, and refer to the Planning Commission.

Motion Carried.

**MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL FOR AGENDA ITEMS**

(Public comments began at 4:14 into recording)

**NONE**

**COUNCIL COMMITTEE REPORTS**

**Public grounds meeting on January 10<sup>th</sup> and February 1<sup>st</sup>**

**Council roundtable meeting on January 24<sup>th</sup>**

It was moved by Sollitto, seconded by Johnstone to accept, and place on file.

Motion carried.

It was moved by Julian, seconded by Devorich to adjourn into executive session per ORC section 121.22 G1, and G3 for appointment of public officials and pending litigation.

**YEAS: 7      NAYS: 0**

Council adjourned into executive session at 6:05 P.M.

It was moved by Lastic, seconded by Johnston to reconvene from executive session.

**YEAS: 7      NAYS: 0**

Council reconvened from executive session at 6:47 P.M.

It was moved by Johnstone, seconded by Julian to amend the consent agenda and include drafts 32-24, 33-24, 34-24, and 37-24 and recommended suspension of the consent agenda.

**ORDINANCES AND RESOLUTION**

(Legislation began at 49:05 into recording)

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 02-24)**

**AN ORDINANCE APPOINTING AND REAPPOINTING MEMBERS TO VARIOUS BOARDS AS REQUIRED BY THE OHIO REVISED CODE AND/OR NILES CODIFIED ORDINANCE, AND DECLARING AN EMERGENCY**

It was moved by Devorich, seconded by Julian to give a third reading to this draft 02-24.

Mr. Sollitto said there was some discussion on this, and council made the decision to expand the appointments from two to four for the nuisance committee.

**YEAS: 7      NAYS: 0**

It was moved by Johnstone, seconded by Lastic to adopt this Draft No 02-24.

**YEAS: 7      NAYS: 0**

This Draft No 02-24 has been adopted on the 7th day of February 2024.

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 17-24)**

**AN ORDINANCE AUTHORIZING THE DISPOSAL OF OBSOLETE FIRE EQUIPMENT BY INTERNET AUCTION ON GOV DEALS AS IT IS NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE BY THE CITY; AND DECLARING AN EMERGENCY**

It was moved by Julian, seconded by Devorich to give a second reading to this draft 17-24.

**YEAS: 7      NAYS: 0**

This Draft No. 17-24 has received its 2nd reading on the 7th day of February 2024.

**The following drafts will be part of the consent agenda, being brought to the floor for the first time, passed together with suspension of three readings, and as an emergency.**

**ORDINANCE NO. \_\_\_\_\_ (Draft No. 24-24)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO PURCHASE FROM MTECH THROUGH STATE PURCHASING A SEWER CAMERA PACKAGE; AND, DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 25-24)**

**AN ORDINANCE APPROVING A THEN AND NOW PAYMENT REQUEST FOR THE EMERGENCY REPAIR REGARDING A WATER LINE BREAK ON SALT SPRINGS ROAD BRIDGE; APPROPRIATING THE NECESSARY FUNDS; AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 26-24)**

**AN ORDINANCE AUTHORIZING THE SERVICE DIRECTOR TO DIRECT PURCHASE A TRANSFORMER FROM SUNBELT SOLOMON; AND, DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 27-24)**

**AN ORDINANCE AUTHORIZING APPROPRIATION FROM THE UNAPPROPRIATED CAPITAL PROJECTS FUND TO THE GRANTS ACCOUNT; AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 29-24)**

**AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE UNAPPROPRIATED FUND 408 PARK CAPITAL GRANT TO THE CONSULTANT FEES ACCOUNT AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 30-24)**

**AN ORDINANCE AUTHORIZING THE PURCHASE OF SHOTGUNS THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM FOR THE 2024 CALENDAR YEAR; AND, DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 31-24)**

**AN ORDINANCE AUTHORIZING THE VACATION OF PEACH ALLEY; AMENDING ORDINANCE 18-24; AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 36-24)**

**AN ORDINANCE APPROVING A THEN AND NOW PAYMENT REQUEST FOR A 24” VALVE REPLACEMENT TO KIRILA CONTRACTORS; APPROPRIATING THE NECESSARY FUNDS, AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 32-24)**

**AN ORDINANCE AUTHORIZING EXPENDITURE FROM THE LOCAL FISCAL RECOVERY FUND 210; THE SERVICE DIRECTOR TO BID AND CONTRACT FOR AN EPA DUMP PAD; AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 33-24)**

**AN ORDINANCE AUTHORIZING EXPENDITURE FROM THE LOCAL FISCAL RECOVERY FUND 210; AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 34-24)**

**AN ORDINANCE AMENDING ORDINANCE NO. 44-23, KNOWN AS THE AUTHORIZED STRENGTH ORDINANCE, AND DECLARING AN EMERGENCY**

**ORDINANCE NO. \_\_\_\_ (Draft No. 37-24)**

**AN ORDINANCE AUTHORIZING EXPENDITURE FROM THE LOCAL FISCAL RECOVERY FUND 210; AND DECLARING AN EMERGENCY**

It was moved by Julian, seconded by Lastic to suspend the rule requiring three readings to this amended consent agenda.

**YEAS: 7      NAYS: 0**

Rules are suspended.

It was moved by Julian, seconded by Sheely to adopt this amended consent agenda.

**YEAS: 7      NAYS: 0**

This amended consent agenda has been adopted on the 7th day of February 2024.

**RESOLUTION NO. \_\_\_\_ (Draft No. 28-24)**

**A RESOLUTION ADOPTING AN AMENDMENT TO THE COUNCIL RULES; AND  
DECLARING AN EMERGENCY**

It was moved by Johnstone, seconded by Devorich to give a first reading to this draft 28-24.

**YEAS: 7      NAYS: 0**

This Draft No. 28-24 has received its 1st reading on the 7th day of February 2024.

**ORDINANCE NO. \_\_\_\_ (Draft No. 35-24)**

**AN ORDINANCE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE  
UNAPPROPRIATED FUND 221 PARK TO THE MISCELLANEOUS ACCOUNT AND  
DECLARING AN EMERGENCY**

It was moved by Lastic, seconded by Johnstone to give a first reading to this draft 35-24.

**YEAS: 7      NAYS: 0**

This Draft No. 35-24 has received its 1st reading on the 7th day of February 2024.

**MEMBERS OF THE AUDIENCE TO ADDRESS COUNCIL FOR GENERAL PURPOSE**

(Public comments began at 56:50 into recording)

Richard Strong: Mr. Strong has two items he wanted to discuss with council. Mr. Strong says there is a speeding problem on Hartzell and Robbins. At the end of Hartzell, there is a house that has been hit 14 or 16 times since 1974. There used to be telephone poles in the devil strip to prevent from crashing into it. Mr. David DeChristofaro has done some research, and he says you can put a guardrail up there. Mr. Strong thinks this is something that needs to be done. As far as the speeding issue is concerned, Mr. Strong would like to know if they could put a cruiser on Hartzel to actually hand out tickets.

Mr. Strong said he keeps hearing how the city has a surplus and he would like to talk about the parks. There are a lot of great ideas floating around, but one thing that he believes is being overlooked is the maintenance of what is already there. There are a lot of overgrown trees and some of them are dead. It is his suggestion to council that they get those trees taken care of professionally before a tragedy happens.

Mayor Mientkiewicz said he knows the police chief has had cruisers on Hartzell due to the speeding. He told Chief Holland it might be time to revisit that. He also asked Chief Holland to provide the crash data for Hartzell and Robbins. Mayor Mientkiewicz said that it has been

explained to the resident previously about the guard rail. 169 is a state route and the reason they were taken out previously is because of ODOT. Mayor Mientkiewicz wanted to be clear that the city does not install guardrails due to liability issues, especially on state routes. If you do research ODOT's standards, which is what the city follows, a guardrail is not meant to stop head on impact. Per ODOT, a guardrail is meant to protect parallel traffic from drop-offs or obstacles. There are areas where a guardrail was installed years ago. If something was to happen to that guardrail, like the one on Emma and Maple, the city does not reinstall it because of liability purposes. There are requests that come to the city to install guardrails, and the city follows the standards that are put out by ODOT.

Mr. Johnstone has a question on the liability part. He wanted to know if he is talking about having automobile liability. For example, if someone's car were to hit a guardrail and it was deemed as an unnecessary guardrail, they could come back on the city for damages to the car. Mayor Mientkiewicz said yes that is correct. Mr. Johnstone wants to know what would constitute a need for the guardrail. Mayor Mientkiewicz said that ODOT would have to do an assessment for this to see if it is necessary. Mr. Johnstone wants to know if they could do one on this property. Mayor Mientkiewicz explained that he was under the impression when Robbins was redone, there was an assessment and that's why the poles were removed. They were unwarranted. Mr. Sollitto said there is a concern for safety. He wants to know what they can do to be proactive. Mr. Sollitto asked Chief Holland about his thoughts on the Hartzell situation. Chief Holland said he can ask for the crash data and review it. They have had officers there watching for speeders and he will talk with the traffic officer about this. But they would also follow up with ODOT on their recommendations.

Mayor Mientkiewicz said ODOT will be in town to do a follow-up on 46 and the lower part of 169. He said they will have their traffic engineers and legal experts take a look at this and get back to us with their recommendations. Mr. Sollitto also asked Law Director Zuzolo if the homeowner chose to move the guardrail back in their property or put one up, would they be allowed to do that. Law Director Zuzolo said he would have to research that to make sure they are not in any violation of city codes. Mr. Sollitto asked him to have an update at the next meeting on this if he could.

Mr. Julian asked about the houses at the bottom of Belmont Ave. and the wooden barriers that are there. Mayor Mientkiewicz said those were put up years ago. Anytime something like that is put in place, they tend to fall back on the ODOT policy. On Maple and Emma, if something happens to those barriers, they will not be replaced. Mr. Johnstone also wants recommendations on speed control devices on Hartzell. He would like to see some data on this. Law Director Zuzolo said they would need to talk to the police chief and traffic officer about this.

Mrs. Devorich asked about Fifth Street and when you are going around it right before you get to Battles. Around a year ago, there were three cement posts put there because there are always accidents there. She asked if the city was able to do this because it was their responsibility and the problem on Robbins and Hogarth they cannot address because it involves Hogarth. Mayor Mientkiewicz believes those are bollards that were put in place by the light department for the high lines. Mr. Sollitto just wanted to confirm that it seems that they have more flexibility in areas that are not state routes. Mayor Mientkiewicz said that seems to be the position. Ms.

Devorich said she only asked that because residents see things going up in other areas and they might not realize that we need ODOT's permission. Mr. Lastic also referenced the guardrail that is in front of where the Dairy Queen was. He didn't think they were in favor of it at first, but believes overtime were thankful for it.

Mr. Sheely said even though Mr. Strong sat back down, he would like to know if they could grant him an additional three minutes. Council asked Law Director Zuzolo if they could do this, and he said they could.

It was moved by Sheely, seconded by Johnstone to grant an additional three minutes to Mr. Strong.  
Motion carried.

Mr. Strong is quoting from a letter he has from Mr. DeChristofaro. On the ODOT website, it clearly states the state of Ohio is a home rule state, which means the municipalities are responsible for all of the roadways within their own municipal limits. This would also include roads that are part of the state or federal system. Mr. Johnstone believes everyone is getting caught up in the term guardrail. If he understands what Mr. Strong is looking for, it is more of a deterrent for speeding or drunk driving.

Law Director Zuzolo wanted to clarify that it is not about having permission. If you are outside of the specs that ODOT sets, you have now exposed yourself to potential liability. For example, as a lawyer, if you put a guardrail here and ODOT said not to have one there, and my client has a heart attack and crashes into it and dies, I am going to sue. This is why Law Director Zuzolo believes a feasibility study is what needs to happen to get the correct information.

Rory Biggins: Mr. Biggins came back to give an update to council on what has been going on at Timbercreek. He has been informed by the USPS that they have ceased all mail to be delivered to Timbercreek. This also includes Amazon orders or other packages. He was informed that they will be installing exterior post boxes, but no notice has been given to the tenants from management and there is no construction started for this project.

Timbercreek's management company collects their money and sends it to Michigan. He is curious to know how much it costs the city of Niles in safety forces to send assistance there. He is also concerned with the entrance of the south entrance of the complex. There are a ton of potholes in that area, and it has been almost two years. Mr. Sollitto told Mr. Biggins he would need to request an additional three minutes.

It was moved by Julian, seconded by Weddell to grant an additional three minutes.  
Motion carried.

Mr. Biggins said the business model of Timbercreek seems to be to fill the units with anyone possible, collect the deposits, and then evict the tenant. He spoke to the property manager at least a month ago about fixing the south entrance and was told they couldn't due to the weather. The weather has been nice, and he has also offered to help and get this taken care of. He wants to know if the safety forces cars are damaged by entering this entrance of their complex. Mr.



Biggins stated that he is an attorney who works from home, and they are obstructing the mail at Timbercreek. But unfortunately, the department of Justice who could initiate fines probably doesn't care.

Mr. Sollitto asked Mr. Weddell if he had any comments for Mr. Biggins. Mr. Weddell said he did already have a meeting with the mayor, Mr. Crowley and a representative for Timbercreek last Wednesday. The city was made some time frames were given to address the issues, and he made it very clear that just because they saw they are going to do it, he doesn't believe it will get done. The representative from Timbercreek did lay out a time frame as to when they believe the issues will be taken care of. Mr. Weddell plans on following up on these issues. Timbercreek did make a video on Facebook of them cleaning an apartment out of a tenant that had recently passed away.

Mr. Julian asked what was the time frame that was given to the city and Mr. Weddell said there wasn't a specific date on each items. They discussed many issues such as the mail, the parking lot, possibility of drugs being dealt in the parking lot, broken stairs, etc. He said will not call them promises but they did give time frames in which they will be addressing the issues. They did stay by mid-March some of the items will be addressed. They will continue to monitor this situation and he will be stopping by to check on the progress.

Mr. Johnstone thanked Mr. Biggins for coming back to give them an update. He did have a friend reach out to him and tell him to search Timbercreek. There are numerous posts but two of them stuck out to him. The first was "if you like black mold, this place is for you." The second was "please help me God get out of this hellhole." Mr. Johnstone said the city has to do something whether it is code enforcement or police enforcement. Something has to be done.

Mayor Mientkiewicz said they will continue to monitor this, and he knows that they are under new management. The new property management seemed to be very responsive to the city's concerns and they seem willing to fix these issues. The administration is not taking their word as stone, but they will follow up. The exterior they will make sure is kept up to code, but unless the interior is a life-threatening issue that would allow the city to go into the apartments, they cannot enter them. They do not have the right to enter them. He doesn't believe the city has a right to medal with the issue the federal postal service.

Mr. Johnstone wants to know how the city plans on holding them to fix these issues. He asked if there was some form of fine or a way to hold them accountable if there are too many complaints. Law Director Zuzolo said there are issues with going inside of the apartment. If a person is saying they are living with mold, they can consent to letting the code enforcement officer in. They have to give us permission to come in to see if it is a safety and well-being issue that the city can enforce. Mr. Johnstone asked Mr. Biggins to relay this information.

Law Director Zuzolo said one of the issues Mr. Biggins brought up before was if a tenant is on a month-to-month lease. If that tenant makes a complaint, there is nothing that would force them to continue to rent to the tenant. What he has found as the prosecutor is that it is good that people are choosing not to live in those conditions, but also the city cannot force the property to rent to anyone. This might be a concern of a tenant who is afraid of making a complaint. Mr. Sheely is

concerned that they are allowed to police themselves. If he rents out a house, it has to be inspected. However, they do not inspect each individual apartment before renting it out. If it was, a code enforcement officer could identify the issues and make sure they were fixed before it was rented out. Mr. Sheely told a story about an issue his son had at another apartment complex with dampness and mold. He was told there was nothing that could have been done and he took it upon himself to hire Servepro to come and clean it. They gave him the information that they found, and he brought it to their attention. In the end, they allowed his son to break his lease. He doesn't believe they should be allowed to police the apartments themselves.

Law Director Zuzolo explained that what Mr. Crowley meant by polcing themselves is that there is a new ordinance that was passed a few years ago. Anytime there is a change out in utilities, the city does go and do an inspection. This is for units with less than 20 units. For 20 or more units, that is up to the property managers to handle. Mr. Sheely feels that if you have that many people flowing in and out of a property, that is a problem. Law Director Zuzolo said if they are month to month, it isn't necessarily a problem. You have a lot of people who can be transient. Mr. Sollitto cut off the conversation to allow for Mr. Sheely to address this in a meeting.

Abigail Bickerstaff: Ms. Bickerstaff has two issues that she wanted to address. She wanted to piggyback on the speeding issues that were mentioned earlier. She said on the Millcreek/Difford/Gypsy Lane streets there is a lot of speeding. She would like to see an officer out there handing out tickets. She would like to get some of the cut through traffic stopped to slow down. He said she has spoken to an officer about this before and it was Officer Crank. They did have the speeding radar on there at one point, but nothing has been done since then.

Second issue is about the section on Niles Vienna Rd. that is scheduled to be paved this year. She said there have been 2-3 water breaks on that road and she would like to know if those issues will be addressed before the city spends the money to pave it and then have to dig it up. Mayor Mientkiewicz thanked her for bringing up this concern. Those have not been water main breaks on Niles Vienna.

Mayor Mientkiewicz asked him to continue to keep Mr. Weddell updated on any issues that continue or new ones that arise. Mr. Sollitto pointed out that these are not new issues with this complex and Mayor Mientkiewicz agreed. What he is talking about is the most recent correspondences. President Marino informed Mr. Biggins that his time was way over, and he would need to ask for more time. They were preventative maintenance valve changes that are ahead of schedule, so they do not have to do any digging once the road has been paved. He believes they also have done a handful of hydrants also. All of these have been scheduled per EPA guidelines. Mayor Mientkiewicz said the city is being proactive in getting these projects completed prior to the paving.

### **MISCELLANEOUS REMARKS**

(Miscellaneous remarks began at 1:38:20 into recording)

Mayor Mientkiewicz wanted to congratulate Maria Orr on her retirement. Maria was the records clerk at the police department. He wanted to wish her a happy retirement and wish her the best in her future endeavors.

Mr. Johnstone wanted to let Chief Holland know about complaints he has received from some suspicious activity happening in Stevens Park after hours. He asked for the chief to send some extra patrol officers through that area. He also wanted to talk about 1210 Robbins Ave. He wanted to thank council and the administration for acting on this property. He asked if the contract for the city to move forward will be signed tomorrow and Mayor Mientkiewicz said there was a slight issue with quotes, and they cannot do this on an emergency issue. They will have to do an asbestos abatement. But the city is moving forward with these.

Lastly, there was a CIC meeting on January 30<sup>th</sup>. He wanted to thank Mr. Dominic Gatta for coming to the meeting and speaking about the recent property he purchased. He purchased the Masonic Temple and will be applying for grants for renovations. He would like to thank Mr. Gatta for taking this on to preserve this historic property. Also, he is working with Mr. Altobelli on an RFP about property on the south side that might be transferred to CIC.

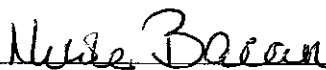
Mr. Sheely said there were pictures posted over the weekend of Murphy Park with all of the graffiti and trash thrown everywhere. He did contact the mayor and he contacted the park department. The city did go and paint the equipment and remove the trash. The park looks very nice now and he hopes they can keep it clean. He would like to see the residents help police this also. He would like to have it coated with an anti-graffiti paint.

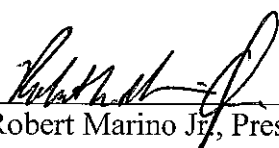
Mrs. Devorich asked the audience if they could hear the council members now more clearly because she has been told in the past since the renovations were completed, it was still hard to hear. The IT department did come and make some adjustments with speakers and microphones. After some feedback, it was determined that they can hear better.

Mr. Sollitto thanked Mrs. McMahon from the school board for attending this evening. He also wanted to give an update on Iowa Park. It will cost the city a minimal amount of money. He wants to thank everyone for getting this moving forward. He said it is a neighborhood park and he would like to make sure that it is more presentable.

### ADJOURN

It was moved by Lastic, seconded by Julian to adjourn the meeting.

  
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Nicole Bacak, Clerk of Council

  
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Robert Marino Jr., President of Council